

Application No. 09/916611
Reply to Office Action of May 3, 2006

Docket No.: 00306-00142-USU

REMARKS

Applicant respectfully requests reconsideration in view of the amendment and following remarks. Support for newly amended claim 1 can be found in claims 1, 69 and 86. This claim uses "consisting of" language.

However, the applicant has deleted the terms "amine", "ether", "diol", "propylene carbonate", "butanediol", "butyl cellulose ether", "butyl carbitol", "propylene glycol", "ethylene glycol", "dipropylene glycol" and "diethylene glycol", because they are not surfactants. The applicant has rewritten objected claim 57 into independent form as newly added claim 98. The applicant has rewritten objected claim 64 into independent form as newly added claim 99. Support for newly added claim 100 can be found in claims 1, 57 and 82. Support for newly added claims 101 and 102 can be found in claim 97.

The applicant has cancelled three independent claims (claims 93, 94 and 96) and added three independent claims 98-100). No additional fee is required for the extra claims.

Rejections of claims 1, 3-18, 20-28, 30-39, 41-48, 50-56, 68, 69, 71, 72, 82-95 as being obvious over AF 300 from Nufarm MSDS, Infosafe No. NU003 will be maintained for reason on record and reason as follows. New claims 96, 97 are added to this rejection. Claims 72, 82-85 have been added to the rejection above. The applicant respectfully traverses this rejection.

The applicant's claimed invention requires that said chlorinated carboxylic acid herbicide is fully dissolved in the surfactant (see independent claims 1 and 97-100). In the applicant's last response, the applicant submitted a declaration from Johnnie Roberts which he indicated that 2,4-D did not dissolve in the surfactant used in the prior art of AF-300 as is required by the applicant's claimed invention. The period was for approximately 66 hours.

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AF 300 does not disclose nor suggest the claimed feature
that said chlorinated carboxylic acid herbicide is fully
dissolved in the surfactant. For this reason alone the original claims and the

present claims are not obvious over AF 300 and this rejection should be withdrawn.

Claim 97

Claim 97 is patentable because it requires a specific additional ingredient selected from the group consisting of

- Methylated fatty acid,
- Ethylated fatty acid,
- Butylated fatty acid,
- Alkylated soybean oil,
- Alkylated canola oil,
- Alkylated coconut oil,
- Alkylated sunflower oil,
- aromatic mineral oil,
- Vegetable oil,
- Fatty acid,
- Polybutene and
- Epoxified seed oil.

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As previously stated, kerosene is not an aromatic mineral oil. Kerosene is not included in the additional ingredient. None of these additional ingredients are suggested or taught by AF 300.

Furthermore, as stated above the claims require **that said chlorinated carboxylic acid herbicide is fully dissolved in the surfactant and not kerosene.** AF 300 does not suggest nor teach this requirement.

Claims 98 and 99

Claims 98 and 99 are objected claims 57 and 64 rewritten in the independent form. These claims were deemed allowable by the Examiner.

Claim 100

Claim 100 is claim 1 written using "consisting of" language but with the possibility of including the features of dependent claims 57 and 82. The Examiner indicated that this subject matter is allowable.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 00306-00142-USU from which the undersigned is authorized to draw.

Respectfully submitted,

By 

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